IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICITON

CRIMINAL APPLICATION NO.5271 OF 2005

The State of Maharashtra .. Applicant.

Versus

Chandrahas Deoram Shelar .. Respondent.

Mr.V.B. Konde-Deshmukh, APP for the applicant.

Mr.S.V. Kotwal for the respondent.

CORAM : J.P. DEVADHAR, J.

DATED : 4TH AUGUST, 2007.

P.C. :

1. Heard learned A.P.P. for the applicant and Mr.S.V. Kotwal for the respondent.

2. This Criminal Application is filed by the State seeking leave to file appeal against the judgment and order dated 14th December, 2004 passed by the learned Special Judge, Pune in Special Case No.3 of 2001.

3. The prosecution case in brief is that the respondent-accused working as Head Constable had demanded and accepted bribe of Rs.1,000/- from the complainant for submitting the chargesheet against the complainant and for releasing him on bail. Accordingly, the accused was charged for the offences punishable under Section 7, 13(1)(d) read

with Section 13(2) of the Prevention of Corruption Act, 1988.

4. The complainant P.W. No.1 working as S.T. Driver was involved in Crime under Section 427, 279 and 337 of the Indian Penal Code and under Section 183 and 184 of the Motor Vehicles Act. An F.I.R. was lodged against the complainant and according to the prosecution, the complainant was called to the police station on 8th July, 2000 for the purpose of filing chargesheet and on that day the accused demanded bribe of Rs.1,000/- and the complainant was asked to attend the police station on 10th July, 2000. On 10th July, 2000 the complainant went to the Office of Anti-Corruption Bureau and lodged a complainant to the effect that the accused has demanded bribe of Rs.1,000/-. Thereafter, the complainant along with pancha witnesses Shedage (P.W. 2) and surety Pansare attended the police station. According to the prosecution, in the presence of the pancha witness and surety the accused demanded a sum of Rs.1,000/- from the complainant and the same was paid by the complainant to the accused. Thereafter, the accused as well as the complainant came out of the cabin because the accused wanted to take signature of the senior officer on some documents. Admittedly, the complainant did not give any signal to the raiding

party immediately after the complainant and the accused came out of the cabin. After coming out of his cabin, the accused went to his senior's cabin for obtaining signatures and while returning from his senior's cabin, according to the accused, the complainant tried to thrust a packet into his pocket which the accused declined to accept and threw it out. According to the prosecution, while the accused was returning from the senior's cabin, the complainant gave signal to the raiding party and thereupon the accused was apprehended. As the anthracene powder was found on the hands and pocket of the accused, he was charged under the offences punishable under Section 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act.

5. On careful consideration of the evidence on record, by the impugned judgment and order dated 14th December, 2000, the learned Special Judge, Pune has acquitted the accused mainly on the ground that the panch witness (P.W. 2) admitted in his evidence that the accused did not demand any bribe from the complainant for filing charge sheet and getting the complainant released on bail. Admittedly, Mr.Pansare (surety) who was present at the material time in the cabin of the accused has not been examined by the prosecution. Thus, the case of the prosecution that the accused demanded and accepted

bribe in his cabin is demolished by the P.W. No.2. Moreover, as per the plan, the complainant was to give signal to the raiding party immediately after coming out of cabin of the accused. Admittedly, no signal was given by the complainant to the raiding party immediately after coming out of the cabin of the accused.

6. In these circumstances, in my view, the decision taken by the Tribunal that the prosecution failed to prove the charges is a reasonable and plausible view and it cannot be said that the said decision suffers from any infirmities.

7. Accordingly, in my view, no case is made out for interference in appeal and hence, the application for leave to appeal is rejected.

(J.P. DEVADHAR, J.)